

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:

McDonald Farms, Inc.,

Respondent

PACA Docket No. D-06-0015

DECISION WITHOUT HEARING
BY REASON OF DEFAULT

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*, hereinafter referred to as "PACA" or the "Act"), instituted by a complaint filed on June 5, 2006, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture.

The complaint alleges that during the period of November 2002 through February 2004, Respondent McDonald Farms, Inc. (hereinafter "Respondent"), failed to make full payment promptly to 16 sellers of the agreed purchase prices in the amount of \$608,877.66 for 568 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in the course of interstate commerce.

A copy of the complaint, filed on June 5, 2006, was sent to Respondent at 2313 Middle Road, Winchester, Virginia 22601 by certified mail on June 5, 2006. The complaint was returned to the Hearing Clerk's office "unclaimed." The complaint was then mailed to Respondent at another address, 117 Clark Road, Stephens City, Virginia 22655, where it was served on July 17, 2006.

No answer to the complaint has been received. The time for filing an answer having expired, and upon motion of the Complainant for the issuance of a default decision, the following Decision and Order shall be issued without further investigation or hearing pursuant to

section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent McDonald Farms, Inc. is a corporation organized and existing under the laws of the state of Virginia. Its business mailing address was 2313 Middle Road, Winchester, VA 22601.

2. At all times material to the allegations of the complaint, Respondent was licensed under the provisions of PACA. License number 19940815 was issued to Respondent on March 15, 1994. This license terminated on March 15, 2004 pursuant to section 4(a) of the PACA (7 U.S.C. § 499d (a)), when it was not renewed.

3. Respondent, during the period of November 2002 through February 2004, failed to make full payment promptly to 16 sellers of the agreed purchase prices in the amount of \$608,877.66 for 568 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in the course of interstate commerce.

Conclusions

Respondent's failure to make full payment promptly with respect to the 568 lots of perishable agricultural commodities set forth in Finding of Fact No. 3 above, constitutes wilful, flagrant and repeated violations of section 2(4) of the PACA (7 U.S.C. § 499b(4)), for which the order below is issued.

Order

A finding is made that Respondent has committed wilful, flagrant and repeated violations of section 2 of the Act (7 U.S.C. § 499b(4)), and the facts and circumstances of the violations shall be published.

This Order shall take effect on the eleventh day after this Decision becomes final.

Pursuant to the Rules of Practice, this Decision will become final without further proceedings thirty-five days after service hereof unless appealed to the Secretary by a party to the proceeding within thirty days after service as provided in sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§ 1.139, 1.145).

Issued at Washington, D.C.

This 12th Day of March, 2007

Marc R. Hillson
Administrative Law Judge